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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,208	04/13/2001	G. Thomas Wolf		3950

42082 7590 03/16/2006

CONWELL LLC
2138 PRIEST BRIDGE COURT
SUITE 4
CROFTON, MD 21114

EXAMINER

MENDOZA, MICHAEL G

ART UNIT PAPER NUMBER

3731

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,208

Applicant(s)

WOLF, G. THOMAS

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the second end of the strap is permanently attached" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose wherein a second end of a strap is permanently attached.

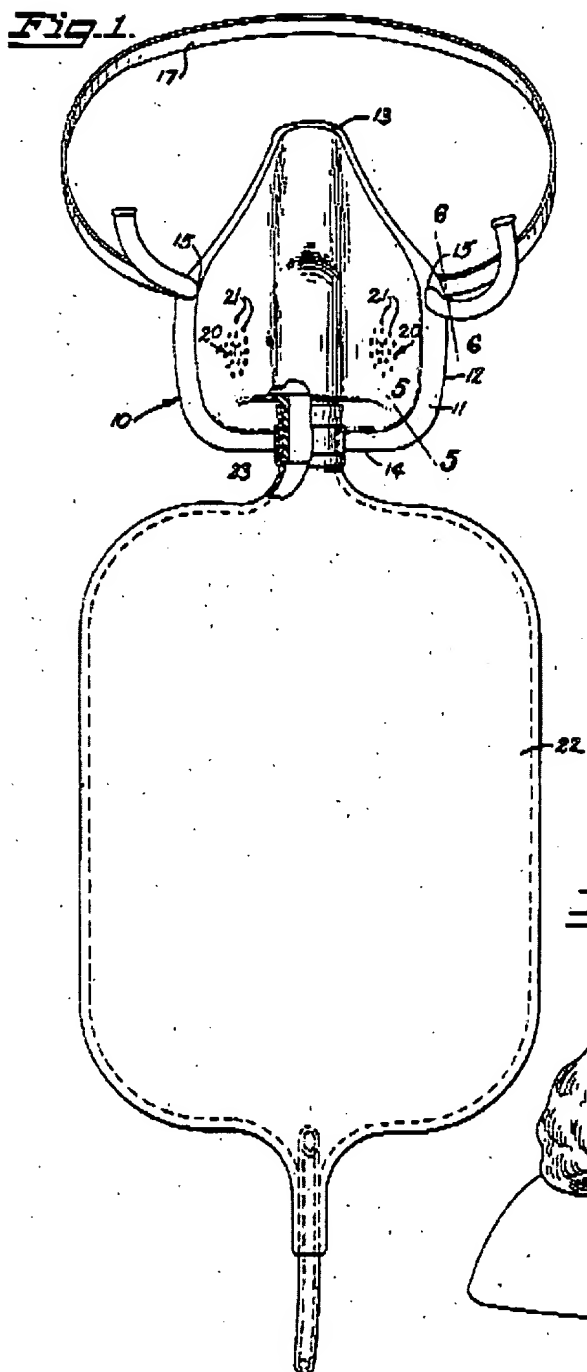
Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-10, 12-13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson 2843121 in view of Bledstein 5701892.

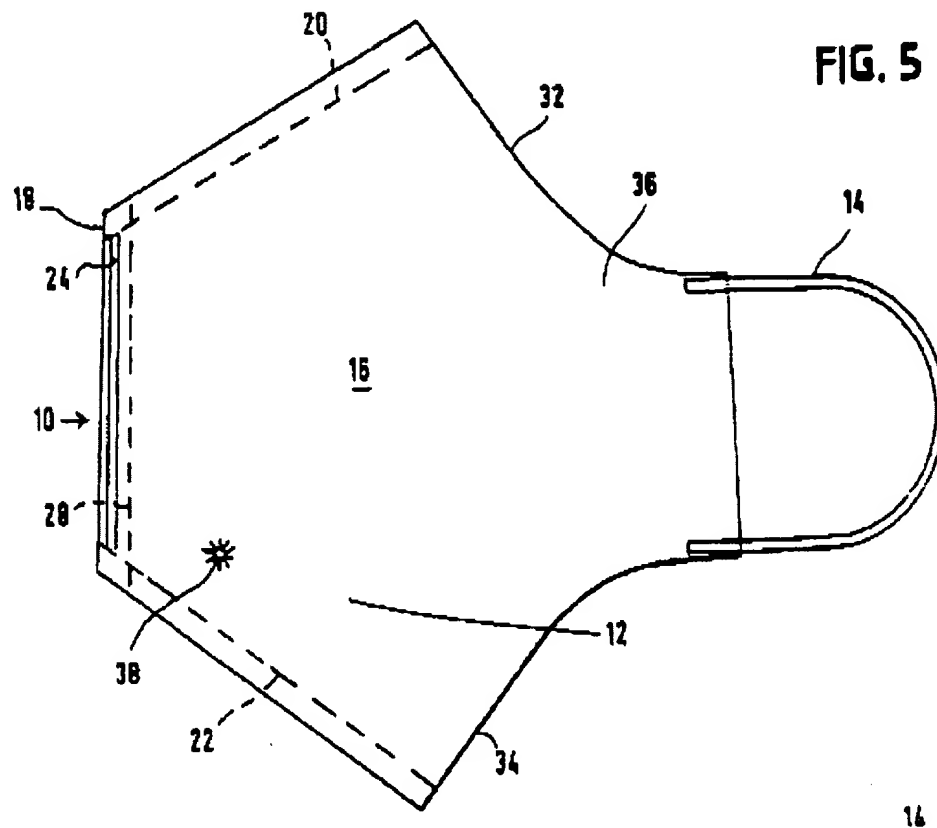
6. As to claims 5, 7, 8, and 10, Hudson teaches an oxygen mask 10 having a means for being secured over the nose and mouth of a patient comprising: an elastic band, points of attachment 15 on both sides of the mask, and the elastic band securable to the patient by pulling the ends anteriorly through the points of attachment (col. 2, lines 27-31). It should be noted that Hudson fails to teach a pair of bands extendible to loop over and around each ear of the patient.



7. Bledstein teaches a mask that uses a pair of bands affixed at four points of attachment and extendible to loop over and around each ear of a patient. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention

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was made to replace band 17 with ear loops of Bledstein to prevent entanglement of bands in a user's hair, glasses, or hat and to make it easy to put on (col. 2, lines 32-33 and col. 6, line 10-17).



8. As to claim 6 and 9, Hudson/Bledstein teaches wherein the elastic bands are affixed at four separate points on the mask.

9. As to claim 14, Hudson teaches an oxygen mask for use on a patient, the oxygen mask comprising: a face mask molded from plastic comprising a larger part of the mask defined by a face-conforming periphery, a rim with an enlargement configured to substantially conform to the contour of the nose bridge of the patient; a first side portion and an opposite second side portion configured to substantially conform to contour of the face of the patient, and a lower portion configured to substantially conform to

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contour of the face of the patient below the mouth so as to form a breathing chamber about the mouth and nostrils of the patient (see figures). It should be noted that Hudson fails to teach a pair of bands extendible to loop over and around each ear of the patient.

10. Bledstein teaches a mask that uses a pair of bands affixed at points of attachment and extendible to loop over and around each ear of a patient. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace band 17 with ear loops of Bledstein to prevent entanglement of bands in a user's hair, glasses, or hat and to make it easy to put on (col. 2, lines 32-33 and col. 6, line 10-17). Hudson/Bledstein teaches wherein the elastic bands are affixed at four separate points on the mask.

11. As to claim 15, Hudson/Bledstein teaches the oxygen mask of claim 14, teaches wherein both ends of the straps is adjustably connected to the face mask (col. 2, lines 20-31).

12. As to claim 17, Hudson/Bledstein teaches the oxygen mask of claim 14, which additionally comprises an adapter plug 23.

13. Claims 12, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson/Bledstein as applied to the claims above, and further in view of Laanen et al. 4865027.

14. As to claims 12, 13, and 18, Hudson/Bledstein teaches the mask of claims 5 and 8. It should be noted that Hudson/Bledstein fails to specifically teach the use of a flap valve.

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15. Laanen et al. teaches a mask with a common valve (20) to vent exhaled gases. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a valve to allow exhaled air to be forced out to the atmosphere (col. 4, lines 58-60).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson/Blestein as applied to the claims above, and further in view of Dyrud et al. 5819731.

16. Hudson/Blestein teaches the oxygen mask of claim 14. It should be noted that Hudson fails to teach wherein one end of each of the straps is adjustable connected to the face mask, and the second end of the strap is permanently attached.

17. Dyrud et al. teaches a mask with a common one end of each of strap is adjustable connected to a face mask, and the second end of each strap is permanently attached. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the fastener 34 to fixedly attach the straps to prevent loss of the straps.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-44963. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM



GLENN K. DAWSON
PRIMARY EXAMINER